

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

MASIMO CORPORATION,
Patent Owner

IPR2022-01291
Patent 10,687,745

PETITIONER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner hereby submits the following objections to evidence filed with Patent Owner's Response of May 26, 2023.

Evidence	Objections
Exhibit 2070	<p>Petitioner objects to the admissibility of Exhibit 2070 under FRE 702 and 703, because it contains opinions that are conclusory, do not disclose supporting facts or data, are based on unreliable facts, data, or methods, and/or include testimony outside the scope of Dr. Duckworth's specialized knowledge (to the extent he has any such knowledge) that will not assist the trier of fact. For example, ¶¶ 29, 34, 39-43, 51-52, 59-65, 68, 79-87, 98-99, 102, 104, 112-114 of Dr. Duckworth's declaration consist of a series of conclusory statements and arguments that are presented without citation to evidence. Dr. Duckworth's failure to disclose the underlying facts or data upon which his opinions are based (to the extent any such facts or data exist) renders his opinions unreliable.</p> <p>Petitioner objects to the admissibility of Exhibit 2070 under FRE 702-703 and 802 because it includes statements that constitute inadmissible hearsay. For example, ¶¶ 22-28, 30-33, 53, 73 of Dr. Duckworth's declaration include statements based on statements made outside of this proceeding. The statements are offered for the truth of the matter asserted, and the statements are not the product of reliable principles or methods.</p>

Exhibit 2072	Petitioner objects to the admissibility of Exhibit 2072 under FRE 402 and 901 because this exhibit is not relevant to any issue in this proceeding. Masimo has not shown that the exhibit is prior art. This exhibit has not been authenticated.
Exhibit 2073	Petitioner objects to the admissibility of Exhibit 2073 under FRE 402 and 901 because this exhibit is not relevant to any issue in this proceeding. Masimo has not shown that the exhibit is prior art. This exhibit has not been authenticated.
Exhibit 2074	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2076	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2077	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2078	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2079	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2080	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2081	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2082	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2083	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.

Exhibit 2084	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2085	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2086	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2087	Petitioner objects to the admissibility of Exhibit 2087 under FRE 402 and 901 because this exhibit is not relevant to any issue in this proceeding. Masimo has not shown that the exhibit is prior art. This exhibit has not been authenticated.
Exhibit 2088	Petitioner objects to the admissibility of Exhibit 2087 under FRE 402 and 901 because this exhibit is not relevant to any issue in this proceeding. Masimo has not shown that the exhibit is prior art. This exhibit has not been authenticated.
Exhibit 2089	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2090	Petitioner objects to the admissibility of Exhibit 2087 under FRE 802 because it constitutes inadmissible hearsay.
Exhibit 2091	Petitioner objects to the admissibility of Exhibit 2091 under FRE 402 and 901 because this exhibit is not relevant to any issue in this proceeding. Masimo has not shown that the exhibit is prior art. This exhibit has not been authenticated.
Exhibit 2092	Petitioner objects to the admissibility of Exhibit 2092 under FRE 402 and 901 because this exhibit is not relevant to any issue in this proceeding. Masimo has not shown that the exhibit is prior art. This exhibit has not been authenticated.

For at least these reasons, Petitioner objects to Exhibits **2070, 2072-2074, 2076-2092** and reserves the right to move to exclude these exhibits as inadmissible.

Respectfully submitted,

Dated: June 5, 2023

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